

GAHC010178162024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : AB/2339/2024

HANIF ALI
S/O MAMUD ALI
R/O VILL- DHARAKOBA PART-II, NEAR DHARAKOBA L.P. SCHOOL,
P.O. RADHAMADHAB HAT, P.S. MANKACHAR, DIST.SOUTH SALMARA
MANKACHAR, ASSAM, PIN- 793131

VERSUS

THE STATE OF ASSAM AND ANR
REP BY THE PP, ASSAM

2:WPSI S R MARAK
O/C WOMEN PS TURA
WEST GARO HILLS
MEGHALAYA

Advocate for the Petitioner : MR S RAHMAN, MS L MISHRA,MS. S PHUKAN,MR S
KHOUND

Advocate for the Respondent : PP, ASSAM, MR Z RAHMAN(INFORMANT),MR S
PRODHANI(INFORMANT),MR. A M KHAN (INFORMANT)

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

24.10.2024

Heard Mr. S Rahman, learned counsel appearing for the petitioner and Mr. K K Parashar, learned Additional Public Prosecutor, Assam, for the State. Also heard Mr. A M Khan learned counsel for the mother of the victim.

2) By this application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner, namely, **Hanif Ali**, Son of Mamud Ali, resident of village Dharakoba Part-II, near Radhamadhab Hat, Police Station- Mankachar, District- South Salmara, Mankachar, is praying for his pre-arrest bail in connection with South Salmara Police Station Case No. 107/2024 registered under Sections 376(2)(i)/313/315 of the Indian Penal Code, 1860 read with Section 4(2) of the POCSO Act, 2012, corresponding to GR No. 262/2024.

3) Perused the case diary, statement of the victim recorded under Section 164 Cr.P.C dated 28.05.2024 made before the learned Judicial Magistrate First Class, South Salmara, Mankachar; the forwarding report of the concerned WPSI of the Women Police Station, Tura, West Garo Hills submitted before the Superintendent of Police, West Garo Hills on 01.04.2024 which later has been considered as the FIR of the case relating to South Salmara Police Station Case No. 107/2024 as well as the accused forwarding dated 24.05.2024 of the concerned Investigating Officer of said South Salmara Police Station Case No. 107/2024.

4) Because of the sexual intercourse by the FIR named accused of the case, namely, Sadik Islam @Sakidul Islam, S/o Abu Hussain, resident of Darakoba, Police Station- Mankachar, District- South Salmara Mankachar, the minor victim became pregnant and in February 2024 she was aborted at Maternity and Child Hospital, Tura, West Garo Hills, Meghalaya, wherein she was admitted on 17.02.2024 and was

discharged there from on 27.02.2024.

5) The victim in her Section 164 Cr.P.C Statement stated that she was administered with certain tablets for termination of her pregnancy by the concerned arrested accused and his uncle, i.e., present petitioner because of which she suffered from profuse bleeding and then her relatives, including her mother and maternal aunt, admitted her in the Maternity and Child Hospital, Tura, West Garo Hills, Meghalaya for better treatment, wherein she was aborted.

6) From the statements of the acquainted witnesses so far recorded by the concerned Investigating Officer of the case under Section 161 Cr.P.C., available in the case diary, it is seen that they did not implicate the petitioner that he had forcefully given the tablet to the victim girl for her abortion, rather they indicated that father, mother and the uncle, i.e., present petitioner of the arrested accused person of the case asked/advised them to give tablets to the victim for her abortion. Accordingly, when they gave her tablets for her abortion, three days after consumption of such tablet, the victim had bleedings, which did not stop. Thereafter, the victim was admitted at Maternity and Child Hospital, Tura, West Garo Hills, Meghalaya for her better treatment by her family members, wherein she was aborted.

7) Considering the materials in the case diary, the Court is of the view that custodial detention of the petitioner, namely, **Hanif Ali** is not warranted for investigation said South Salmara Police Station Case No. 107/2024.

8) Accordingly, it is provided that in the event of arrest of the petitioner, namely, **Hanif Ali**, in said South Salmara Police Station Case No. 107/2024, he shall be released on bail, on furnishing bail bond of Rs 50,000/- with 2 (two) local sureties of the like amount, one of which shall be a Government Employee, either Central or State Government, to the satisfaction of the arresting authority, on conditions that the petitioner -

(i) shall appear before the Investigation Officer of said South Salmara Police

Station Case No. 107/2024 on or before **30.10.2024** during the office hours and thereafter, as and when he is required for necessary investigation of said South Salmara P.S. Case;

(ii) shall not leave the territorial jurisdiction of South Salmara Police Station, without obtaining prior written permission from the concerned Investigating Officer of said South Salmara P.S. Case;

(iii) shall not hamper with the investigation, or tamper with the evidence of the case;

(iv) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer and

(v) shall not involve himself in any criminal activities.

9) Failure on the part of the petitioner, named above, to comply with any of the terms and conditions stated above, the pre-arrest bail granted to him, in the aforementioned South Salmara Police Station Case No. 107/2024, shall stand automatically vacated.

10) With the above observations and directions, this pre-arrest bail application of the petitioner stands allowed to the extent above.

11) Return the case diary herewith.

JUDGE

Comparing Assistant